

Amendment Under 37 C.F.R. § 1.111
U.S. Patent Appl'n. No.: 10/669, 632

REMARKS

Claims 1-77 have been examined. Claims 1, 8, 15 and 24-26 have been rejected under 35 U.S.C. § 102(e), and claims 27-28 have been rejected under 35 U.S.C. § 103(a). Also, claims 29-77 are allowed, and claims 2-7, 9-14 and 16-23 contain allowable subject matter.

I. Preliminary matters

The Examiner has objected to the disclosure and to the abstract of the disclosure. Applicants submit that the amendments to the specification overcome the objections.

II. Rejection under 35 U.S.C. § 102(e) over U.S. Patent No. 6,819,888 to Teraoka et al. (“Teraoka”)

Claims 1, 8, 15 and 24-26 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Teraoka.

Claims 1, 8, 15 and 24-26 have been canceled without prejudice or disclaimer, and thus, the rejection of the claims is moot.

III. Rejection under 35 U.S.C. § 103(a) over Teraoka in view of U.S. Patent No. 5,787,320 to Eun et al. (“Eun”)

Claim 27 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Teraoka in view of Eun.

Claims 27 has been canceled without prejudice or disclaimer, and thus, the rejection of the claim is moot.

IV. Rejection under 35 U.S.C. § 103(a) over Teraoka in view of U.S. Patent No. 6,600,884 to Shimmura

Claim 28 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Teraoka in view of Shimmura. Applicants submit that claim 28 is patentable over the cited references.

For example, claim 28 describes an optical density detecting means which detects an optical density *of a toner image* which is obtained by the development of an electrostatic latent image. On the other hand, none of the references suggest the features above. The Examiner concedes that Teraoka does not disclose or teach that a toner density detecting mean is an optical toner density detecting means. However, the Examiner contends that Shimmura discloses an image forming apparatus comprising an optical toner density detecting means. Further review of Shimmura indicates that it discloses a toner density sensor 86 located inside a tank 81, which houses developing liquid, and detects the toner density of the developing liquid housed inside the tank 81. Col. 10, lines 44-46, col. 11, lines 1-13 and Fig. 2. However, Shimmura does not suggest an optical density detecting means which detects an optical density *of a toner image* as described by claim 28. Therefore, Applicants submit that claim 28 is patentable over Teraoka and Shimmura.

V. Allowable Subject Matter

The Examiner has indicated that claims 29-77 are allowed, and claims 2-7, 9-14 and 16-23 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph and to include all of the limitations of the base claim and any intervening claims.

The Examiner states that claims 2-7, 9-14 and 16-23 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112, second paragraph, set forth in the Office Action. However, the Office Action does not contain any statement of statutory basis or explanation with regard to the rejection.

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Applicants believe that the rejection under 35 U.S.C. § 112, second paragraph is an unintended error and respectfully request the Examiner to withdraw the rejection. If the rejection is not an error, the Examiner should explain the reasons which the rejection is based on. See Manual of Patent Examining Procedure (MPEP) 2171 and 706.03(d).

Since the rejection of claims 2-7, 9-14 and 16-23 under 35 U.S.C. § 112, second paragraph is likely to be an unintended error by the Examiner and these claims, as amended, include all of the limitations of the base claim and any intervening claims, Applicant respectfully submit that claims 2-7, 9-14 and 16-23 are allowable.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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Date: June 20, 2005

Respectfully submitted,


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